

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

Defendant.

Case No. 3:23-CV-00818-RJC DCK

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a. First, I hid every row except those that Ms. Mueller stated were the rows with data for the locations where Brian Baldwin had made his purchases. Mueller Decl. ¶ 18. That left the spreadsheet with just the data corresponding to Mr. Baldwin's purchases.

b. Next, I sorted the data according to Column E ("Account Name"), so that the data for Koyo-Orangeburg and Okonite, the workplaces where Mr. Baldwin worked when he made purchases from Compass' machines, would be in adjacent rows respectively.

c. Next, I sorted the data in chronological order according to the Survey Dates in Column L.

d. Finally, I hid all columns but those that would show where machines were located; whether and, if so, when they were surveyed, and whether – if they were surveyed – they were reported to have what Compass calls a "Cash Discount Sticker" (i.e., a label indicating that purchases made with a card would be ten cents higher than the displayed price for each item).

6. Exhibit 1 shows that of the 17 rows for machines at Koyo-Orangeburg, 10 represent machines that were not surveyed. Of the 20 rows for machines at Okonite, six represent machines that were not surveyed.

7. At Koyo-Orangeburg, two machines were surveyed in a location designated as Plant 1 on 5/15/2019 and one in Plant 2 on 5/29/2019. None of them had labels.

8. At Koyo-Orangeburg, four machines were surveyed in Plant 1, Plant 2 or Office over a year later in October, November, and December 2020. All had labels.

9. At Okonite, machines were surveyed in locations designated as Compound, Breakroom, Rewind, Jacket Plant, and Drivers Lounge.

10. The earliest date on which Exhibit 1 shows a survey at Okonite was 5/2/2019. On that date, one machine was surveyed. It was located in the Compound and was reported to have a label. However, that entry appears to be in error because Column P indicates that its first revenue date was October 2020. It seems unlikely that a machine could have been surveyed over a year before it reported any revenue. Moreover, columns that I did not include in Exhibit 1 report dollar amounts for months beginning in 2014. The earliest dollar amount for this machine is \$18.60 in November 2019 (suggesting that even the October 2020 date was in error). Thus, this does not appear to have been a two-tier machine on 5/2/2019, and the entry showing it was labeled on that date is apparently in error.

11. The next date of the survey at Okonite was 5/16/2019. On that date the report shows that machines in all of the above Okonite locations were surveyed, except for one that was surveyed on 5/20/2019. None of those machines were reported to have labels on those dates.

12. Machines were next surveyed at Okonite in November 2019 through December 2020. All were reported to have labels.

13. Attached hereto as Exhibit 2 is a pdf copy of a spreadsheet adapted from CG-0022218, which Nicole Mueller identified as a report for Compass' machines in Illinois. *See* Mueller Decl., ¶ 20. Compass had produced that report to Plaintiff's counsel as an Excel spreadsheet.

14. I adapted that spreadsheet in the same way as Exhibit 1, including hiding all rows except for those she identified as at the locations where Jason Pemberton made his purchases.

15. Exhibit 2 has 32 rows of data, all from Caterpillar Inc. Bldg KK in East Peoria, Illinois, a workplace where Mr. Pemberton worked. Of those, the report shows two machines as unlabeled, 24 as labeled, and six as not surveyed.

16. The two unlabeled machines were reported from the two earliest survey dates. They were the only machines surveyed on those dates. The first one was at the Location designated as “KK1 Front Office.” It was surveyed on 4/12/2019. That location was next surveyed five months later, on 9/12/2019, when two machines were reported to be labeled.

17. The other unlabeled machine was located in “KK 5P” and was surveyed on 7/10/2019. That location was next surveyed over a year later on 7/27/20 when the surveyed machine was reported to be labeled.

18. The above information shows that, discounting the Okonite entry that appears to be in error, there were no workplaces on Exhibits 1 or 2 that had labeled and unlabeled machines at the same time. Furthermore, all the unlabeled machines at a given workplace were reported on dates earlier than the dates for all labeled machines.

19. Compass first informed Plaintiff on June 27, 2023, that the survey included photographing the machines; Martha Morgan included that fact in a Declaration that Compass produced to Plaintiff’s counsel on that date. Before then, Plaintiff had no way of knowing that there were photographs of Compass’ vending machines showing whether they had “cash discount stickers.”

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on May 3, 2024 in St. Louis, Missouri.

Dated: May 3, 2024

/s/ Richard S. Cornfeld
Richard S. Cornfeld